

EXHIBIT E

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Attorneys for Plaintiff
ASAT INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ASAT HOLDINGS, LTD., and ASAT, INC.,

Plaintiffs,

v.

MOTOROLA, INC.,

Defendant.

CASE NO.: C03 01514 RS ARB

**PLAINTIFF ASAT, INC.'S
RESPONSE TO DEFENDANT
MOTOROLA, INC.'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS AND THINGS**

MOTOROLA, INC.,

Counterclaimant,

v.

ASAT HOLDINGS, LTD., ASAT, INC., and
QPL INTERNATIONAL HOLDINGS, LTD.,

Counterdefendants.

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and the Civil Local
Rules of the Northern District, plaintiff and counterdefendant ASAT, Inc. ("ASAT"), by and
through its undersigned counsel, hereby responds to defendant and counterclaimant Motorola,
Inc.'s ("Motorola") First Set of Requests for Production of Documents and Things ("Document

ASAT INC.'S RESPONSE TO MOTOROLA'S FIRST
SET OF DOCUMENT REQUESTS
CASE No. C03 01514 RS ARB

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1 ("Document Requests") to Plaintiffs ASAT Holdings, Ltd. and ASAT, Inc., dated September 18,
2 2003, as follows:

3 **GENERAL OBJECTIONS**

4 **GENERAL OBJECTION NO. 1**

5 ASAT objects to the Document Requests to the extent that they call for the production of
6 documents that are neither relevant to the subject matter of this action nor reasonably calculated
7 to lead to the discovery of admissible evidence.

8 **GENERAL OBJECTION NO. 2**

9 ASAT objects to the Documents Requests on the grounds that they are overbroad and
10 unduly burdensome as they are unconstrained by any time period.

11 **GENERAL OBJECTION NO. 3**

12 ASAT objects to the Documents Requests to the extent that they call information that is
13 confidential or proprietary to, or contains the trade secrets of, ASAT or a third party. Each such
14 document request is overly broad, unduly burdensome, oppressive, and seeks to impose
15 obligations beyond those permitted by the Federal Rules of Civil Procedure and/or the Local
16 Civil Rules. To the extent that ASAT produces documents in response to the Document
17 Requests, even if not otherwise subject to objection, ASAT will do so only in accordance with a
18 protective order entered by the Court in this action.

19 **GENERAL OBJECTION NO. 4**

20 ASAT objects to each request to the extent it purports to require ASAT to produce
21 documents in violation of a legal or contractual obligation of nondisclosure to a third party.
22 Mentor will not produce such documents without either the consent of the relevant third party or
23 a court order compelling production.

24 **GENERAL OBJECTION NO. 5**

25 ASAT objects to the Document Requests to the extent that they call for information,
26 documents, and things protected from discovery by the attorney-client privilege, the attorney
27 work product doctrine, or any other applicable privilege or immunity. To the extent that ASAT
28 produces documents in response to the Document Requests, ASAT will not produce any

1 document protected by such privileges or immunities, and any inadvertent production or
2 disclosure shall not be deemed to constitute a waiver of any such privilege or immunity. ASAT
3 will prepare and, subject to agreement of counsel, produce a log identifying any materials,
4 otherwise responsive, that have been withheld on grounds of attorney-client privilege or the
5 attorney work product doctrine. ASAT will not, however, list on such log any materials withheld
6 on the basis of attorney-client privilege or the attorney work product doctrine and generated on
7 or after the date on which this litigation commenced with the filing of the complaint.

8 **GENERAL OBJECTION NO. 6**

9 ASAT objects to the Document Requests as overbroad and unduly burdensome to the
10 extent that they call for the production of "all" responsive documents. ASAT's responses are
11 based upon a reasonable and good faith search, given the time allocated to ASAT to respond to
12 the Document Requests, of ASAT's facilities and files that could reasonably be expected to
13 contain responsive information. ASAT will produce only those documents in ASAT's
14 possession, custody, or control that ASAT is able to locate pursuant to a search and inquiry using
15 reasonable diligence and judgment concerning the whereabouts of responsive documents.

16 **GENERAL OBJECTION NO. 7**

17 ASAT objects to the Document Requests to the extent that they call for production of
18 documents already in the possession, custody, or control of Motorola, or which are available to
19 Motorola, formally or informally, from public or other sources, on the grounds that such
20 Document Requests are unduly burdensome and oppressive.

21 **GENERAL OBJECTION NO. 8**

22 ASAT objects to the Document Requests on the grounds that the time and place specified
23 for production is unreasonable. To the extent that ASAT produces documents in response to the
24 Document Requests, ASAT will do so at a time and place mutually agreed upon by the parties.
25 Moreover, ASAT's response that it will produce documents in response to a Document Request
26 does not necessarily mean that responsive documents exist, but instead that ASAT will produce
27 documents if such documents are located.

1 **GENERAL OBJECTION NO. 9**

2 When ASAT produces documents in response to the Document Requests, ASAT does not
3 concede that the documents requested or produced are relevant to this action. ASAT expressly
4 reserves the right to object to further discovery into the subject matter of the Document Request
5 categories and the introduction into evidence of any document or portion thereof.

6 **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

7 1. ASAT objects to Motorola's "Definitions" and "Instructions" to the extent that
8 they are inconsistent with or seek to impose obligations beyond those imposed by the Federal
9 Rules of Civil Procedure and/or the Civil Rules of the Northern District.

10 2. ASAT objects to the definition of "RELATING TO" on the grounds that it is
11 vague, ambiguous, and overbroad, and renders many of the Document Requests unintelligible.
12 ASAT will construe these Document Requests as seeking documents that "evidence" their
13 respectively described categories.

14 3. ASAT objects to the definition of "BGA" on the grounds that it is vague,
15 ambiguous, and overbroad. ASAT will construe "BGA" to mean ball grid arrays of the type
16 available at the time when the Immunity Agreement was executed, and similar devices, and to
17 exclude FPBGAs.

18 **SPECIFIC RESPONSES TO DOCUMENT REQUESTS**

19 Subject to and without waiving or limiting the foregoing General Objections and
20 Objections to Definitions and Instructions, and incorporating them into each and every response
21 to the extent applicable, ASAT responds as follows to the Document Requests:

22 **DOCUMENT REQUEST NO. 1:**

23 All contracts or agreements between YOU and DEFENDANT relating to BGAs,
24 including but not limited to drafts of contracts or agreements, and appendices, addenda, or
25 exhibits to any contracts or agreements.

RESPONSE TO DOCUMENT REQUEST NO. 1:

Subject to and without waiving its General Objections, ASAT will produce responsive non-privileged documents to the extent that they exist.

DOCUMENT REQUEST NO. 2:

All DOCUMENTS relating to the negotiation or drafting of any contracts or agreements between YOU and DEFENDANT relating to BGAs.

RESPONSE TO DOCUMENT REQUEST NO. 2:

Subject to and without waiving its General Objections, ASAT will produce responsive non-privileged documents to the extent that they exist.

DOCUMENT REQUEST NO. 3:

All DOCUMENTS interpreting or analyzing any contracts or agreements between YOU and DEFENDANT relating to BGAs.

RESPONSE TO DOCUMENT REQUEST NO. 3:

Subject to and without waiving its General Objections, ASAT will produce responsive non-privileged documents to the extent that they exist.

DOCUMENT REQUEST NO. 4:

All DOCUMENTS relating to any disputes relating to any contracts or agreements between YOU and DEFENDANT relating to BGAs.

RESPONSE TO DOCUMENT REQUEST NO. 4:

Subject to and without waiving its General Objections, ASAT will produce responsive non-privileged documents to the extent that they exist.

DOCUMENT REQUEST NO. 5:

All contracts or agreements between YOU and DEFENDANT relating to FPBGAs, including but not limited to drafts of contracts or agreements, and appendices, addenda, or exhibits to any contracts or agreements.

1 **RESPONSE TO DOCUMENT REQUEST NO. 5:**

2 Subject to and without waiving its General Objections, ASAT will produce responsive
3 non-privileged documents to the extent that they exist.

4 **DOCUMENT REQUEST NO. 6:**

5 All DOCUMENTS relating to the negotiation or drafting of any contracts or agreements
6 between YOU and DEFENDANT relating to FPBGAs.

7 **RESPONSE TO DOCUMENT REQUEST NO. 6:**

8 Subject to and without waiving its General Objections, ASAT will produce responsive
9 non-privileged documents to the extent that they exist.

10 **DOCUMENT REQUEST NO. 7:**

11 All DOCUMENTS interpreting or analyzing any contracts or agreements between YOU
12 and DEFENDANT relating to FPBGAs.

13 **RESPONSE TO DOCUMENT REQUEST NO. 7:**

14 Subject to and without waiving its General Objections, ASAT will produce responsive
15 non-privileged documents to the extent that they exist.

16 **DOCUMENT REQUEST NO. 8:**

17 All DOCUMENTS relating to any disputes relating to any contracts or agreements
18 between YOU and DEFENDANT relating to FPBGAs.

19 **RESPONSE TO DOCUMENT REQUEST NO. 8:**

20 Subject to and without waiving its General Objections, ASAT will produce responsive
21 non-privileged documents to the extent that they exist.

22 **DOCUMENT REQUEST NO. 9:**

23 All DOCUMENTS relating to the negotiation or drafting of any the IMMUNITY
24 AGREEMENT, including any amendments, addenda, appendices, addenda, or exhibits to the
25 IMMUNITY AGREEMENT.

RESPONSE TO DOCUMENT REQUEST NO. 9:

Subject to and without waiving its General Objections, ASAT will produce responsive non-privileged documents.

DOCUMENT REQUEST NO. 10:

All COMMUNICATIONS between ASAT and QPL relating to the IMMUNITY AGREEMENT.

RESPONSE TO DOCUMENT REQUEST NO. 10:

Subject to and without waiving its General Objections, ASAT will produce responsive non-privileged documents.

DOCUMENT REQUEST NO. 11:

All COMMUNICATIONS between ASAT and QPL relating to BGAs or FPBGAs.

RESPONSE TO DOCUMENT REQUEST NO. 11:

In addition to the General Objections, ASAT objects to this Document Request on the grounds that it is overbroad, unduly burdensome, and seeks production of documents that are neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

DOCUMENT REQUEST NO. 12:

All COMMUNICATIONS between ASAT and QPL relating to DEFENDANT.

RESPONSE TO DOCUMENT REQUEST NO. 12:

Subject to and without waiving its General Objections, ASAT will produce responsive non-privileged documents.

DOCUMENT REQUEST NO. 13:

All contracts or agreements between ASAT and QPL relating to the IMMUNITY AGREEMENT or any amendment or addenda thereto, including but not limited to drafts of contracts or agreements, and appendices, addenda, or exhibits to any contracts or agreements.

RESPONSE TO DOCUMENT REQUEST NO. 13:

Subject to and without waiving its General Objections, ASAT will produce responsive non-privileged documents.

DOCUMENT REQUEST NO. 14:

All contracts or agreements between ASAT and QPL relating to BGAs or FPBGAs, including but not limited to drafts of contracts or agreements, and appendices, addenda, or exhibits to any contracts or agreements.

RESPONSE TO DOCUMENT REQUEST NO. 14:

In addition to the General Objections, ASAT objects to this Document Request on the grounds that it is overbroad, unduly burdensome, and seeks production of documents that are neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

DOCUMENT REQUEST NO. 15:

All contracts or agreements between ASAT and QPL relating to DEFENDANT, including but not limited to drafts of contracts or agreements, and appendices, addenda, or exhibits to any contracts or agreements.

RESPONSE TO DOCUMENT REQUEST NO. 15:

Subject to and without waiving its General Objections, ASAT will produce responsive non-privileged documents.

DOCUMENT REQUEST NO. 16:

All DOCUMENTS relating to the formation of ASAT Holdings, Ltd.

RESPONSE TO DOCUMENT REQUEST NO. 16:

In addition to the General Objections, ASAT objects to this Document Request to the extent that it is overbroad, vague, and ambiguous. ASAT will produce documents sufficient to show the assets transferred by QPL to ASAT Holdings, Ltd. in the October 1999 transaction by which ASAT Holdings, Ltd was formed. ASAT will also produce documents sufficient to show the transfer or assignment by QPL to ASAT of any agreement between QPL and Motorola, at any time.

1 **DOCUMENT REQUEST NO. 17:**

2 All DOCUMENTS relating to the transfer of assets from QPL to ASAT.

3 **RESPONSE TO DOCUMENT REQUEST NO. 17:**

4 In addition to the General Objections, ASAT objects to this Document Request to the
5 extent that it is overbroad, vague, and ambiguous. ASAT will produce documents sufficient to
6 show the assets transferred by QPL to ASAT Holdings, Ltd. in the October 1999 transaction by
7 which ASAT Holdings, Ltd was formed. ASAT will also produce documents sufficient to show
8 the transfer or assignment by QPL to ASAT of any agreement between QPL and Motorola, at
9 any time.

10 **DOCUMENT REQUEST NO. 18:**

11 All contracts or agreements between ASAT and QPL relating to the formation of ASAT,
12 Holdings, Ltd., including but not limited to drafts of contracts or agreements, and appendices,
13 addenda, or exhibits to any contracts or agreements.

14 **RESPONSE TO DOCUMENT REQUEST NO. 18:**

15 Subject to and without waiving its General Objections, ASAT will produce responsive
16 non-privileged documents.

17 **DOCUMENT REQUEST NO. 190 [sic, 19]:**

18 All DOCUMENTS relating to YOUR contention that DEFENDANT was aware that
19 QPL was selling FPBGA products.

20 **RESPONSE TO DOCUMENT REQUEST NO. 19:**

21 Subject to and without waiving its General Objections, ASAT will produce responsive
22 non-privileged documents.

23 **DOCUMENT REQUEST NO. 201 [sic, 20]:**

24 All DOCUMENTS relating to any purchase of FPBGA products by DEFENDANT
25 from QPL.

1 **RESPONSE TO DOCUMENT REQUEST NO. 20:**

2 Subject to and without waiving its General Objections, ASAT will produce responsive
3 non-privileged documents.

4 **DOCUMENT REQUEST NO. 22 [sic, 21]:**

5 All DOCUMENTS relating to YOUR contention that DEFENDANT was aware that
6 ASAT was selling FPBGA products.

7 **RESPONSE TO DOCUMENT REQUEST NO. 21:**

8 Subject to and without waiving its General Objections, ASAT will produce responsive
9 non-privileged documents.

10 **DOCUMENT REQUEST NO. 23 [sic, 22]:**

11 All DOCUMENTS relating to any purchase of FPBGA products by DEFENDANT
12 from ASAT.

13 **RESPONSE TO DOCUMENT REQUEST NO. 22:**

14 Subject to and without waiving its General Objections, ASAT will produce responsive
15 non-privileged documents.

16 **DOCUMENT REQUEST NO. 24 [sic, 23]:**

17 All DOCUMENTS relating to YOUR performance under the IMMUNITY
18 AGREEMENT.

19 **RESPONSE TO DOCUMENT REQUEST NO. 23:**

20 In addition to the General Objections, ASAT objects to this Document Request on the
21 grounds that it is vague to the extent it assumes that there was performance under the Immunity
22 Agreement, which ASAT denies. Subject to and without waiving these objections, ASAT will
23 produce non-privileged documents reflecting the payment of royalties on BGA sales to
24 Motorola.

25 **DOCUMENT REQUEST NO. 25 [sic, 24]:**

26 All DOCUMENTS relating any royalties paid by YOU to DEFENDANT.
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1 **RESPONSE TO DOCUMENT REQUEST NO. 24:**

2 Subject to and without waiving its General Objections, ASAT will produce responsive
3 non-privileged documents.

4 **DOCUMENT REQUEST NO. 26 [sic, 25]:**

5 All DOCUMENTS relating to any requests or attempts by DEFENDANT to collect
6 royalties from YOU.

7 **RESPONSE TO DOCUMENT REQUEST NO. 25:**

8 Subject to and without waiving its General Objections, ASAT will produce responsive
9 non-privileged documents.

10 **DOCUMENT REQUEST NO. 27 [sic, 26]:**

11 All DOCUMENTS relating to any audit of YOU by DEFENDANT.

12 **RESPONSE TO DOCUMENT REQUEST NO. 26:**

13 Subject to and without waiving its General Objections, ASAT will produce responsive
14 non-privileged documents.

15 **DOCUMENT REQUEST NO. 28 [sic, 27]:**

16 All COMMUNICATIONS between YOU and DEFENDANT.

17 **RESPONSE TO DOCUMENT REQUEST NO. 27:**

18 Subject to and without waiving its General Objections, ASAT will produce responsive
19 non-privileged documents.

20 **DOCUMENT REQUEST NO. 29 [sic, 28]:**

21 All COMMUNICATIONS between YOU and any third party relating to
22 DEFENDANT.

23 **RESPONSE TO DOCUMENT REQUEST NO. 28:**

24 Subject to and without waiving its General Objections, ASAT will produce responsive
25 non-privileged documents.

DOCUMENT REQUEST NO. 30 [sic, 29]:

All COMMUNICATIONS between YOU and any third party relating to the IMMUNITY AGREEMENT.

RESPONSE TO DOCUMENT REQUEST NO. 29:

Subject to and without waiving its General Objections, ASAT will produce responsive non-privileged documents.

DOCUMENT REQUEST NO. 31 [sic, 30]:

All DOCUMENTS relating to patents or patent rights held by DEFENDANT.

RESPONSE TO DOCUMENT REQUEST NO. 30:

In addition to the General Objections, ASAT objects to this Document Request to the extent that it is overbroad and unduly burdensome, and seeks production of documents that are neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

DOCUMENT REQUEST NO. 32 [sic, 31]:

All DOCUMENTS relating to any comparison between BGAs and FPBGAs.

RESPONSE TO DOCUMENT REQUEST NO. 31:

Subject to and without waiving these objections, ASAT will produce responsive non-privileged documents.

DOCUMENT REQUEST NO. 33 [sic, 32]:

All DOCUMENTS relating to the conception of ASAT's FPBGA products, including but not limited to, all DOCUMENTS sufficient to identify the date of conception of any of the FPBGA products, and to identify all PERSONS involved in the conception of the FPBGA products.

RESPONSE TO DOCUMENT REQUEST NO. 32:

In addition to the General Objections, ASAT objects to this Document Request to the extent that it is overbroad and unduly burdensome, and seeks production of documents that are neither relevant to the subject matter of this action nor reasonably calculated to lead to the

1 discovery of admissible evidence. In addition, ASAT objects to this Document Request to the
2 extent that it is vague and ambiguous with respect to conception and ASAT.

3 **DOCUMENT REQUEST NO. 34 [sic, 33]:**

4 All **DOCUMENTS** containing, describing, illustrating, depicting, referring or relating to
5 the names, titles, and/or job responsibilities of any **PERSONS** involved in any manner in the
6 conception, research and development, design, manufacture, engineering, production, marketing,
7 use or sale of the **BGA** products, including but not limited to package types Glob Top, FpBGA,
8 FxBGA, PBGA, and INT-HS BGA.

9 **RESPONSE TO DOCUMENT REQUEST NO. 33:**

10 In addition to the General Objections, ASAT objects to this Document Request to the
11 extent that it is overbroad and unduly burdensome, and seeks production of documents that are
12 neither relevant to the subject matter of this action nor reasonably calculated to lead to the
13 discovery of admissible evidence. ASAT further objects to the vague, ambiguous, and overbroad
14 use of the term "BGA products" to include package types Glob Top, FpBGA, FxBGA, PBGA,
15 and INT-HS BGA.

16 **DOCUMENT REQUEST NO. 35 [sic, 34]:**

17 A representative sample of each of **YOUR BGA** products, including but not limited to
18 package types Glob Top, FpBGA, FxBGA, PBGA, and INT-HS BGA.

19 **RESPONSE TO DOCUMENT REQUEST NO. 34:**

20 In addition to the General Objections, ASAT objects to the vague, ambiguous, and
21 overbroad use of the term "BGA products" to include package types Glob Top, FpBGA,
22 FxBGA, PBGA, and INT-HS BGA. Subject to and without waiving these objections, ASAT will
23 produce responsive representative samples of its BGA, Glob Top, FpBGA, PxBGA, PBGA, and
24 INT-HS-BGA products.

25 **DOCUMENT REQUEST NO. 36 [sic, 35]:**

26 **DOCUMENTS** sufficient to identify all sales of **YOUR BGA** products.
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1 **RESPONSE TO DOCUMENT REQUEST NO. 35:**

2 In addition to the General Objections, ASAT objects to this Document Request on the
3 grounds that it is vague and ambiguous as to the term "identify." Subject to and without waiving
4 these objections, ASAT will produce documents sufficient to show sales by ASAT of BGA and
5 FPBGA products from October 31, 1999 through April 8, 2003.

6 **DOCUMENT REQUEST NO. 37 [sic, 36]:**

7 **DOCUMENTS** sufficient to identify all sales of **YOUR BGA** products, including but
8 not limited to package types Glob Top, FpBGA, FxBGA, PBGA, and INT-HS BGA.

9 **RESPONSE TO DOCUMENT REQUEST NO. 36:**

10 In addition to the General Objections, ASAT objects to the vague, ambiguous, and
11 overbroad use of the term "BGA products" to include package types Glob Top, FpBGA,
12 FxBGA, PBGA, and INT-HS BGA. Subject to and without waiving these objections, ASAT will
13 produce documents sufficient to show total sales by ASAT of BGA, Glob Top, FpBGA, FxBGA,
14 PBGA, and INT-HS BGA products, from October 31, 1999 through April 8, 2003.

15 **DOCUMENT REQUEST NO. 38 [sic, 37]:**

16 All **DOCUMENTS** relating to any "patent [or] cross-licensing agreements" between
17 **ASAT** and **MOTOROLA** as stated in **YOUR** Form 20-F Annual Reports for 2001 and 2002
18 filed with the Securities and Exchange Commission.

19 **RESPONSE TO DOCUMENT REQUEST NO. 37:**

20 Subject to and without waiving its General Objections, ASAT will produce responsive
21 non-privileged documents.

22 **DOCUMENT REQUEST NO. [sic, 38]:**

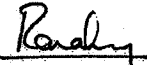
23 All **DOCUMENTS** identified in **YOUR** initial disclosures.
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1 **RESPONSE TO DOCUMENT REQUEST NO. 38:**

2 Subject to and without waiving its General Objections, ASAT will produce responsive
3 non-privileged documents.

4
5 Dated: November 10, 2003

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

6
7 By: 
8 Rena Chng

9 Attorneys for plaintiff and counterdefendant
10 ASAT Holdings Ltd.

1 **CERTIFICATE OF SERVICE**

2

3 I, Laura Montoya, declare:

4 I am employed in Santa Clara County, State of California. I am over the age of 18 years
5 and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati,
6 650 Page Mill Road, Palo Alto, California 94304-1050.

7 On this date, I served:

8 1. **PLAINTIFF ASAT, INC.'S RESPONSE TO DEFENDANT MOTOROLA,
9 INC.'S FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS AND THINGS**

10 ☒ By placing the document(s) in a sealed envelope for collection and mailing with
11 the United States Postal Service on this date to the following person(s):

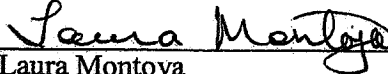
12 Morgan W. Tovey
13 Kerry Hopkins
14 Reed Smith Crosby Heafey LLP
Two Embarcadero Center, Suite 2000
San Francisco, CA 94111

15 Terence N. Hawley
16 Reed Smith Crosby Heafey LLP
17 1999 Harrison Street
Oakland, CA 94612-3572

18 Philip McLeod, Esq.
19 John D. Giffin, Esq.
20 Keesal, Young & Logan
Four Embarcadero Center, Suite 1500
San Francisco, CA 94111

21 I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and
22 processing of documents for delivery according to instructions indicated above. In the ordinary
23 course of business, documents would be handled accordingly.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct. Executed at Palo Alto, California on November 10, 2003.

26
27 
28 Laura Montoya